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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,636	06/28/2001	Malcolm King	032942-032	5976

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EXAMINER

KHARE, DEVESH

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 11/07/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/892,636

Applicant(s)

KING ET AL.

Examiner

Devesh Khare

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Applicant's Amendment and response filed on 7/22/03 is acknowledged.

Claims 14, 17, 21 have been amended. Currently, claims 13-37 are under examination.

35 U.S.C. 112, second paragraph rejection

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-37 are rejected under the second paragraph of 35 U.S.C. 112, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, of record.

(1) The phrase "number of hydrogen bonding sites" in claims 13,24 and 29 is a relative phrase, which renders the claim indefinite. The phrase "number of hydrogen bonding sites" does not define the number of hydrogen binding sites in the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

(2) Claims 13,14,16,18,19,20,22-24,26,29,32,33 and 37 are vague and indefinite as it is unclear whether the phrase "polysaccharide" is intended to be included as a dextran polysaccharide or any polysaccharide. Also, the phrase "polysaccharide" lack the definition for a plurality of molecular chains (of undisclosed length and composition), renders claims 13,14,16,18,19,20,22-24,26,29,32,33 and 37 indefinite.

(3) The phrase "oligomers of galactose and fucose and the amino sugars glucosamine and galactosamine" in claims 15,27 and 34 is a relative phrase, which renders the claim

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indefinite. The phrase "oligomers of galactose and fucose and the amino sugars glucosamine and galactosamine" does not define the combination of galactose and fucose and amino sugars glucosamine and galactosamine and the type of linkages between them. The specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claims 25,28,30,35 and 36 are also rejected as indefinite since they are dependent on indefinite base claims 24,26,29 and 33.

Rejection Maintained

Rejection of claims 13-37 under the second paragraph of 35 U.S.C. 112, is maintained for the reasons of record.

Response to Arguments

Applicant's arguments filed on July 22,2003 traversing the rejection of claims 13-37 under the second paragraph of 35 U.S.C. 112, have been fully considered but they are not persuasive.

Applicant's claim "Knowing the number of hydrogen bonding sites of dextran, one skilled in the art could readily look at the molecular structure of a different polysaccharide and determine whether it has the same number of hydrogen bonding sites". Regarding the molecular structure of a polysaccharide, the applicant does not provide the structure or chemical name of the active agent for the method of claims 13,14,24,26,29,and 33. How can one skilled in the art practice the method without knowing what to administer?

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Applicant further argues, "The polysaccharide encompassed by the claims would require such similarities so that the number of hydrogen bonding sites are the same. The polysaccharides of the claims are thus sufficiently clear." Applicant has not demonstrated the followings regarding the active agent(polysaccharide) for the method in claims 15, 27 and 34:

1. How is the polysaccharide arranged?
2. What is the sequence & number of 4 components galactose and fucose and the amino sugars glucosamine and galactosamine ?

2. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

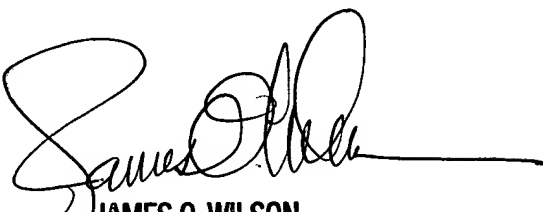
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Devesh Khare whose telephone number is (703)605-1199. The examiner can normally be reached on Monday to Friday from 8:00 to 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson, Supervisory Patent Examiner, Art Unit 1623 can be reached at 703-308-4624. The official fax phone numbers for the organization where this application or proceeding is assigned is (703) 308-4556 or 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Devesh Khare, Ph.D.,JD(3Y).
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October 31,2003



JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600